

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT JAMMU**

Bail App No. 295/2025

Reserved on: 17.07.2026

Pronounced on: 20.07.2026

Uploaded on: 20.07.2026

Whether the operative part or full  
judgment is pronounced: Full

Ramandeep Singh

....Petitioner

Through:- Mr. Supreet Singh Johal, Advocate.

v.

UT of J&K

.....Respondents

Through:- Mr. Pawan Dev Singh, Dy. AG.

**CORAM: HON'BLE MR. JUSTICE RAJESH SKEHRI, JUDGE**

**JUDGMENT**

1. The instant petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking his enlargement on regular bail in FIR No. 77/2022 registered at Police Station, Gangyal for offences punishable under Sections 8 and 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The prosecution case, in brief, is that on 09.07.2022, a naka was established by the police party near Peer Baba Kunjwani, Jammu, where a vehicle bearing registration No. JK02AV-8157 was intercepted. During the course of checking of the said vehicle, the police allegedly recovered 2.976 kilograms of opium from the cabin of the vehicle. On the basis of the said

recovery, the petitioner came to be arrested and aforesaid FIR was registered. The petitioner has remained in custody since 09.07.2022.

3. The investigation in the matter was completed and the charge-sheet came to be presented before learned Trial Court on 07.09.2022. Charges were framed against the petitioner on 07.10.2022. The prosecution cited thirteen witnesses in support of its case and out of the said witnesses, five witnesses have been examined till date. The petitioner has, therefore, undergone incarceration of nearly four years as an under-trial prisoner, whereas the trial is still pending and its conclusion does not appear to be imminent.

4. Learned counsel appearing for the petitioner submits that continued incarceration of the petitioner for such a prolonged period has resulted in infringement of his fundamental right to speedy trial guaranteed under Article 21 of the Constitution of India. It is submitted that the petitioner has already suffered substantial incarceration without determination of his guilt and that the criminal trial, despite lapse of considerable time, is nowhere near conclusion.

5. Learned counsel has also urged that petitioner is entitled to consideration on the ground of parity as co-accused Manpreet Singh, who was also facing trial in the same FIR, has already been granted regular bail by learned Trial Court on 01.10.2022 and the said order was subsequently made absolute on 17.10.2022.

6. *Per contra*, learned counsel appearing for the respondent has opposed the prayer for bail on the ground that the alleged recovery is of commercial quantity and the provisions of Section 37 of the NDPS Act are attracted. It is contended that in view of the statutory embargo contained under Section 37 of the NDPS Act, the petitioner cannot seek bail merely on the ground of

prolonged incarceration. It is submitted that the offence alleged against the petitioner is serious in nature and has a deleterious impact on society.

7. Heard learned counsels for the parties and perused the material available on record.

8. There is no dispute with the proposition that offences involving commercial quantity under the NDPS Act are governed by stringent provisions and the restrictions contained under Section 37 of the NDPS Act are required to be kept in mind while considering a prayer for bail. Hon'ble Supreme Court in the case of **Union of India vs. Ram Samujh, (1999) 9 SCC 429**, while dealing with the object behind Section 37 of the NDPS Act, observed that the provisions have been enacted keeping in view the devastating impact of drug trafficking on society and that liberal approach in granting bail in such cases may frustrate the object of the legislation.

9. Likewise, in **Narcotics Control Bureau vs. Mohit Aggarwal, (2022) 4 SCC 713**, Hon'ble Supreme Court reiterated that while considering bail in commercial quantity cases, the Court must remain conscious of the twin conditions incorporated under Section 37 of the NDPS Act and should not undertake an elaborate appreciation of evidence at the stage of bail.

10. Recently, Hon'ble Supreme Court in **State of Meghalaya vs. Lalrintluanga Sailo, 2024 SCC OnLine SC 537**, reiterated that the statutory restrictions contained under Section 37 of the NDPS Act cannot be ignored while considering bail applications for bail involving recovery of commercial quantity of contraband.

11. However, at the same time, it is equally well enunciated that provisions of Section 37 of the NDPS Act cannot be interpreted in a manner which results in indefinite incarceration of an accused awaiting trial. The right to

speedy trial is an integral part of the right to life and personal liberty guaranteed under Article 21 of the Constitution of India.

12. Hon'ble Supreme Court in **Hussainara Khatoon vs. Home Secretary, State of Bihar, (1980) 1 SCC 81**, declared that the right to a speedy trial is a fundamental right implicit in the guarantees of Article 21 and detaining a person for an indefinite period is violative of this right.

13. The Constitution Bench of the Hon'ble Supreme Court in **A.R. Antulay vs. R.S. Nayak, (1992) 1 SCC 225**, strongly emphasized that speedy trial is a fundamental aspect of the “Right to Life and Personal Liberty” implicit in Article 21 of the Constitution and is in the interest of both the victim and the accused.

14. The principle that statutory restrictions cannot completely override constitutional rights has also been recognized by Hon'ble Supreme Court in **Union of India vs. K.A. Najeeb, (2021) 3 SCC 713**. While dealing with stringent provisions under the Unlawful Activities (Prevention) Act, Hon'ble Supreme Court held that constitutional courts are not powerless to grant bail where incarceration becomes prolonged and the trial is unlikely to conclude within a reasonable period. The Court observed that statutory restrictions, though important, cannot be interpreted to defeat the fundamental right to personal liberty.

15. The said principle was further reiterated in **Mohd. Muslim @ Hussain vs. State (NCT of Delhi), 2023 SCC OnLine SC 352**, wherein Hon'ble Supreme Court observed that while stringent provisions restricting bail have to be respected, the Court cannot lose sight of the constitutional mandate of Article 21 and the right of an accused to a fair and expeditious trial.

**16.** Applying the aforesaid principles to the facts of the present case, this Court finds that the petitioner has remained in custody since July, 2022. The petitioner has undergone incarceration of more than four years now as an under-trial prisoner. Out of thirteen cited prosecution witnesses only five have been examined till date. The prosecution at this pace is more likely to consume another four years to finish the list.

**17.** It is significant that the witnesses who were most relevant for establishing the alleged recovery and seizure have already been examined. The prosecution has already placed before the Trial Court the testimony of the witnesses connected with the alleged recovery of contraband. The remaining witnesses are largely official witnesses, including the Investigating Officer and witnesses relating to formal aspects of the case. Thus, the apprehension that release of the petitioner would adversely affect the prosecution case does not appear to carry substantial weight at this stage.

**18.** The Court is conscious that the alleged recovery is of commercial quantity and that the rigours of Section 37 of the NDPS Act are attracted. However, the Court cannot ignore the fact that the petitioner has remained incarcerated for almost four years and the trial is still not concluded. The possibility of completion of trial in the near future appears uncertain. The liberty of an under-trial prisoner cannot be curtailed for an indefinite period merely because the alleged offence falls under a stringent statute.

**19.** It needs to be emphasized that grant of bail in such circumstances does not amount to an expression of opinion regarding the innocence of the petitioner. The Court is not required to conduct a mini trial or record findings on the merits of the prosecution case at this stage. The only consideration is whether continued incarceration of the petitioner, in the peculiar facts and

circumstances of the case, would be justified when balanced against his fundamental right to personal liberty.

**20.** It is also relevant to notice that the alleged quantity recovered, though falling within the category of commercial quantity, is 2.976 kilograms of opium, which is only marginally above the prescribed commercial quantity threshold. This factor by itself may not entitle the petitioner to bail, but when considered cumulatively with prolonged incarceration, progress of trial, examination of material witnesses and absence of any allegation regarding misuse of liberty, it assumes significance.

**21.** Another circumstance which weighs with this Court is that the co-accused Manpreet Singh has already been granted bail by learned Trial Court and the said bail order has attained finality. Though the principle of parity is not an absolute rule, similarly placed accused persons ordinarily deserve similar treatment unless there are distinguishing circumstances. No such distinguishing circumstance has been brought to the notice of this Court.

**22.** The object of Section 37 of the NDPS Act is to ensure that persons involved in serious narcotic offences do not misuse the concession of bail. However, the provision cannot be construed as permitting incarceration of an accused for years together without completion of trial. The constitutional guarantee under Article 21 requires the Court to strike a balance between the interest of society and the right of an individual to personal liberty.

**23.** Considering the totality of the circumstances, namely, the period of incarceration undergone by the petitioner, the stage of trial, examination of material prosecution witnesses, likelihood of further delay in conclusion of proceedings, parity with the co-accused and the absence of any material

indicating likelihood of misuse of liberty, this Court is of the considered view that the petitioner has made out a case for grant of regular bail.

**24.** Accordingly, present petition is allowed and petitioner is ordered to be released on bail on his furnishing a solvent surety bond to the tune of ₹1.00 lac (rupees one lac) to the satisfaction of learned Trial Court and a bond of personal recognizance of the like amount to the satisfaction of Superintendent of concerned jail subject to the following conditions that:

- (i) he shall not jump over bail and tamper with prosecution evidence or influence any witness;
- (ii) he shall not leave territorial jurisdiction of the trial court without prior permission;
- (iii) he shall not commit an offence similar to the offence of which he is accused;
- (iv) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the courts or to any police officer or tamper with evidence.

**25.** It is made clear that the observations made herein are only for the purpose of deciding the present bail application and shall not be construed as an expression of opinion on the merits of the case, which shall be decided by the learned Trial Court independently on the basis of evidence led during the trial.

**26.** The bail application stands disposed of accordingly.

**(Rajesh Sekhri)**  
**Judge**

**Jammu**  
**20.07.2026**  
Paramjeet

Whether the judgment is speaking: **Yes/No**  
Whether the judgment is reportable: **Yes/No**